

TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 185  
CREDIT UNION COMMUNITY REINVESTMENT

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AUTHORITY: Implementing and authorized by the Illinois Community Reinvestment Act [205 ILCS 735].

SOURCE: Adopted at 47 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

### Section 185.10 Authority, Purposes and Scope

- a) The Illinois Community Reinvestment Act (ILCRA) [205 ILCS 735] authorizes this Part.
- b) Purposes. This Part is intended to carry out the purposes of the Illinois Community Reinvestment Act (ILCRA) by establishing the framework and criteria by which the Secretary assesses a covered credit union's ILCRA record. These rules shall be liberally construed to effectuate their purpose. Without limiting the aforementioned purpose, specific purposes of this Part include:
  - 1) Establishment of rules pursuant to Section 35-10(b) of the ILCRA, which requires that this Part incorporate federal rules promulgated under the federal Community Reinvestment Act (12 U.S.C. 2901; see also 12 CFR Part 345). Specifically, Section 35-10(b) of the ILCRA states, in relevant part: *To assist in carrying out this Act, the Secretary shall adopt rules incorporating the regulations applicable to covered financial institutions under federal law, and the Secretary may make such adjustments and exceptions thereto as are deemed necessary.*
  - 2) Accordingly, this Part
    - i) may include references to federal statutes or rules established pursuant to the federal Community Reinvestment Act; and
    - ii) except where this Subpart makes adjustments or exceptions to the administrative rules established pursuant to the federal Community Reinvestment Act or where inconsistent with the ILCRA or this Subpart, this Subpart shall be construed and interpreted

consistently with the appropriate federal financial supervisory agency's construction and interpretation of the federal rules.

- 3) Establishment of rules as required by Section 35-10(c) of the ILCRA. These rules shall be liberally construed to effectuate their purpose.
- 4) Establishment of rules as the Secretary may deem appropriate as authorized by the Act under Section 35-15(a), Section 35-35, or otherwise.

- c) **Scope.** This Part applies to credit unions. Except as context otherwise indicates, this Part does not apply to a bank chartered under the Illinois Banking Act, a savings bank chartered under the Illinois Savings Bank Act, an entity licensed under the Illinois Residential Mortgage License Act of 1987 which lent or originated 50 or more residential mortgage loans in the previous calendar year, and any other financial institution under the jurisdiction of the Department as designated by rule by the Secretary.

## **Section 185.20 Definitions**

For purposes of this Part, the following definitions apply:

"Affiliate" means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

"Alternative financial products or services" means financial products or services offered by persons other than an insured depository institution at a higher cost than comparable services offered by an insured depository institution.

"Area median income" means:

the median family income for the MSA/CBSA, if a person or geography is located in an MSA/CBSA; or

the statewide nonmetropolitan median family income, if a person or geography is located outside an MSA/CBSA.

"Assessment area" means a geographic area delineated in accordance with Section 400.

"Application" means an application for the establishment of a branch, office, or other facility, the relocation of a main office, branch, office, or other facility license renewal, change in control of a covered financial institution, or a merger or consolidation with or the acquisition of assets or assumption of liabilities of any financial institution, out-of-state bank, credit union, or residential mortgage licensee, national bank or credit union, or foreign financial institution.

"Automated teller machine (ATM)" means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the credit union at which deposits are received, cash dispersed, or money lent.

"Branch" means a staffed facility established or acquired as a branch under Illinois law.

"CBSA" means a core based statistical area as defined by the Director of the Office of Management and Budget.

"Community development" means:

Affordable housing (including multifamily rental housing) for low- and moderate-income individuals;

Community services targeted to low- and moderate-income individuals;

Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.301) or have gross annual revenues of \$1 million or less; or

Activities that revitalize or stabilize –

low- or moderate-income geographies;

designated disaster areas; or

distressed or underserved nonmetropolitan middle-income geographies designated by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, based on –

rates of poverty, unemployment, and population loss; or

population size, density, and dispersion. Activities  
revitalize and stabilize geographies designated based on  
population size, density, and dispersion if they help to meet  
essential community needs, including needs of low- and  
moderate-income individuals; or

unbanked or underbanked geographies.

activities targeted to directly and tangibly –

increase climate resilience in low-income to moderate-income  
neighborhoods; or

mitigate environmental harm in low-income to moderate-income  
neighborhoods.

any other such area as determined by the Secretary based on –

Rates of poverty, unemployment, and population loss; or

Population size, density, and dispersion. Activities revitalize and  
stabilize geographies designated based on population size, density,  
and dispersion if they help to meet essential community needs,  
including needs of low- and moderate-income individuals.

"Community development loan" means a loan that:

has as its primary purpose community development; and

except in the case of a wholesale or limited purpose credit union:

has not been reported or collected by the credit union or an affiliate  
for consideration in the credit union's assessment as a home  
mortgage or consumer loan, unless it is a multifamily dwelling  
loan (as described in Appendix A to 12 CFR 203, the Consumer  
Financial Protection Bureau's implementing regulations for the  
Home Mortgage Disclosure Act); and

benefits the credit union's assessment area or a broader Statewide  
or regional area that includes the credit union's assessment area.

"Community development service" means a service that:

has as its primary purpose community development;

is related to the provision of financial services; and

has not been considered in the evaluation of the credit union's retail banking services under Section 185.240(d).

"Community Reinvestment Act" unless context indicates otherwise means the Illinois Community Reinvestment Act ("ILCRA").

"Consumer loan" means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage or small business loan. Consumer loans include the following categories of loans:

Motor vehicle loan, a consumer loan extended for the purchase of and secured by a motor vehicle;

Credit card loan, a line of credit for household, family, or other personal expenditures that is accessed by a borrower's use of a "credit card", as this term is defined in 12 CFR 1026.2;

Home equity loan, a consumer loan secured by a residence of the borrower;

Other secured consumer loan, a secured consumer loan that is not included in one of the other categories of consumer loans; and

Other unsecured consumer loan, an unsecured consumer loan that is not included in one of the other categories of consumer loans.

"Credit union" means a corporation chartered under a cooperative, non-profit association, incorporated under the Illinois Credit Union Act.

"Department" means the Illinois Department of Financial and Professional Regulation.

"Disparity Study" means a study conducted by or on behalf of the Department pursuant to Section 185.210(h).

"Field of membership" means the members or persons eligible to join a credit union consisting of one or more of the following common bonds: association, occupation or community.

"Fiscal year" means the fiscal year for the State of Illinois (starts July 1 and ends June 30).

"Geography" means a census tract or a block numbering area delineated by the United States Bureau of the Census in the most recent decennial census.

"Home mortgage loan" means a closed-end mortgage loan or an open-end line of credit as these terms are defined under 12 CFR 1003.2 and that is not an excluded transaction under 12 CFR 1003.3(c)(1) through (10) and (13).

"Income level" includes:

Low-income, an individual income that is less than 50% of the area median income, or a median family income that is less than 50%, in the case of a geography.

Moderate-income, an individual income that is at least 50% and less than 80% of the area median income, or a median family income that is at least 50% and less than 80%, in the case of a geography.

Middle-income, an individual income that is at least 80% and less than 120% of the area median income, or a median family income that is at least 80% and less than 120%, in the case of a geography.

Upper-income, an individual income that is 120% or more of the area median income, or a median family income that is 120% or more, in the case of a geography.

"Institution", unless context indicates otherwise institution means a credit union.

"Limited purpose institution or limited purpose credit union", an institution that offers only a narrow product line (such as credit card or motor vehicle loans) to a regional or broader market and for which a designation as a limited purpose institution is in effect, in accordance with Section 185.250(2).

"Loan location", a loan is located as follows:

a consumer loan is located in the geography where the borrower resides;

a home mortgage loan is located in the geography where the property to which the loan relates is located; and

a small business loan is located in the geography where the main business facility or farm is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

"Loan production office" means a staffed facility of a credit union, other than a branch, that is open to the public or members and that provides lending-related services, such as loan information and applications.

"Metropolitan division" means a metropolitan division as defined by the United States Director of the Office of Management and Budget.

"MSA" means a metropolitan statistical area or a primary metropolitan statistical area as defined by the United States Director of the Office of Management and Budget.

"Person" means any individual, partnership, joint venture, trust, estate, firm, corporation, cooperative society or association, or any other form of business association or legal entity.

"Protected characteristic" means any basis for which discrimination is prohibited by a law for which a credit union is examined for compliance under this Part, including but not limited to, under the Illinois Human Rights Act for example, race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service.

"Public lobby" means an area generally accessible to a credit union's members which allows for easy reading of notices in the place of business.

"Qualified investment" means a lawful investment, deposit, membership share, or grant that has as its primary purpose community development, and lawful investments include the following:

- corporations for the purpose of micro-lending in the area of small business and small farms;

- corporations for the purpose of providing technical assistance to nonprofit housing corporations, small businesses and farms for the purpose of establishing creditworthiness;

- contributions to any private nonprofit organization organized for improving the social and economic conditions, such as community development and redevelopment programs, small business technical



assistance, and educational institutions, in communities in which the credit union has an office; and

contributions for the purpose of relieving suffering or distress resulting from disaster or other calamity, such as hurricane or flood, occurring in any part of the State; and

contributions to community development and redevelopment programs.

"Secretary" means the Secretary or Acting Secretary of the Financial and Professional Regulation and his or her authorized representatives.

"Small credit union" means a credit union that, as of December 31 of either of the prior two calendar years, had total assets of less than \$1.503 billion. "Intermediate small credit union" means a small credit union with assets of at least \$376 million as of December 31 of both of the prior two calendar years and less than \$1.503 billion as of December 31 of either of the prior two calendar years. The dollar figures in the small credit union definition of this section may be adjusted annually and published by the Secretary, based on the year to year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted for each twelve-month period ending in November, with rounding to the nearest million.

"Small business loan" means a loan to a business with gross annual revenues of \$1,000,000.00. For purposes of this Part, small business loan includes small farm loans.

"Special Credit Program" means any credit program offered by a credit union to meet special social needs which is in conformity with and explicitly authorized by the Equal Credit Opportunity Act, 15 U.S.C. § 1691(c) and Regulation B, 12 C.F.R. § 1002.8, and the Illinois Human Rights Act 775 ILCS 5/4-104(C).

"Unbanked person" means a person who does not have a checking or savings account with an insured bank, savings bank, or credit union.

"Underbanked person" means a person that has a checking or savings account with an insured depository institution but that used alternative financial products or services in the past 12 months.

"Wholesale credit union" means a credit union that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers, and for which a designation as a wholesale credit union is in effect, in accordance with Section 185.250(b).

SUBPART B: STANDARDS OF ASSESSING PERFORMANCE

**Section 185.200 Assessment Factors**

- a) As used in this Part, “assessment factors” means the assessment of the following factors to determine whether a credit union is meeting the financial services needs of local communities:
  - 1) activities to ascertain the financial services needs of the community, including communication with community members regarding the financial services provided;
  - 2) extent of marketing to make members of the community aware of the financial services offered;
  - 3) origination of mortgage loans including, but not limited to, home improvement and rehabilitation loans, and other efforts to assist existing low-income and moderate-income residents to be able to remain in affordable housing in their neighborhoods;
  - 4) for small business lenders, the origination of loans to businesses with gross annual revenues of \$1,000,000.00 or less, particularly those in low-income and moderate-income neighborhoods;
  - 5) participation, including investments, in community development and redevelopment programs, small business technical assistance programs, minority-owned depository institutions, community development financial institutions, and mutually-owned financial institutions;
  - 6) efforts working with delinquent customers to facilitate a resolution of the delinquency;
  - 7) origination of loans that show an under concentration and a systemic pattern of lending resulting in the loss of affordable housing units;
  - 8) evidence of discriminatory and prohibited practices; and
  - 9) offering retail banking services to unbanked and underbanked persons.
- b) In applying these factors, the Secretary shall account for a credit union’s field of membership and any lending or investment limitation or prohibition applicable to the credit union pursuant to law.

**Section 185.210 Performance Tests, Standards, and Ratings, In General**

- a) Performance tests and standards. The Secretary assesses the ILCRA performance of a credit union in an examination as follows:
  - 1) The Secretary shall apply the assessment factors, as provided in Section 185.200, and the lending and service tests, as provided in Section 185.220 and Section 185.240 in evaluating the performance of a credit union, except as provided in Section 185.210(a)(2), (a)(3) and (a)(4). The investment test, as provided in Section 185.230, does not apply to credit unions unless the credit union elects to be evaluated pursuant to the investment test at the start of an examination.
  - 2) Community development test for wholesale or limited purpose credit unions. The Secretary applies the community development test for a wholesale or limited purpose credit union, as provided in Section 185.250, except as provided in Section 185.210(a)(4).
  - 3) Small credit union performance standards. The Secretary applies the small credit union performance standards as provided in Section 185.260 in evaluating the performance of a small credit union or a credit union that was a small credit union during the prior calendar year, unless the credit union elects to be assessed as provided in Section 185.210(a)(1), (a)(2), or (a)(4). A small credit union may elect to be assessed as provided in Section 185.210(a)(1) only if it collects and reports the data required for other credit unions under Section 185.410.
  - 4) Strategic plan. The Secretary evaluates the performance of a credit union under a strategic plan if the credit union submits, and the Secretary approves, a strategic plan as provided in Section 185.270.
- b) Performance context. The Secretary applies the tests and standards in Section 185.210(a) and also considers whether to approve a proposed strategic plan in the context of:
  - 1) demographic data on median income levels, distribution of household income, nature of housing stock, housing costs, and other relevant data pertaining to a credit union's assessment area;
  - 2) any information about lending, investment, and service opportunities in the credit union's assessment area maintained by the credit union or

obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;

- 3) the credit union's product offerings and business strategy as determined from data provided by the credit union;
- 4) credit union capacity and constraints, including the size and financial condition of the credit union, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the credit union's ability to provide lending, investments, or services in its assessment area;
- 5) the credit union's past performance and the performance of similarly situated credit unions;
- 6) the credit union's public file, as described in Section 185.420, and any written comments about the credit union's ILCRA performance submitted to the credit union or the Secretary;
- 7) the credit union's defined membership by-law provisions, as prescribed in 205 ILCS 305/15, and the lending and investment authority restrictions under 205 ILCS 305/59; and
- 8) any other information deemed relevant by the Secretary.

c) Assigned ratings. The Secretary assigns to a credit union one of the following four ratings pursuant to Section 185.280 and 185.APPENDIXA (Ratings): "outstanding"; "satisfactory"; "needs to improve"; or "substantial noncompliance" as provided in [205 ILCS 735/35-15(c)]. The rating assigned by the Secretary reflects the credit union's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the credit union, and consistent with its common bond.

d) Safe and sound operations. This Part and the ILCRA does not require a credit union to make loans or investments or to provide services that are inconsistent with safe and sound operations, its size and financial condition, or inconsistent with its common bond. Credit unions are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- and moderate-income geographies or individuals and work with delinquent customers to facilitate a resolution of the delinquency, only if consistent with safe and sound operations and consistent with its common bond.

- 515 e) Low-cost Education Loans Provided to Low-Income Borrowers. In assessing and  
516 taking into account the record of a credit union under this Part, the Secretary shall  
517 consider, when applicable, low-cost education loans originated by the credit union  
518 to borrowers, particularly in its assessment area, who have an individual income  
519 that is less than 50 percent of the area median income. For purposes of this  
520 paragraph, “low-cost education loans” means any education loan, as defined in  
521 section 140(a)(7) of the Truth in Lending Act (15 U.S.C. 1650(a)(7)) (including a  
522 loan under a state or local education loan program), originated by the credit union  
523 for a student at an “institution of higher education”, as that term is generally  
524 defined in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C.  
525 1001 and 1002) and the implementing regulations published by the U.S.  
526 Department of Education, with interest rates and fees no greater than those of  
527 comparable education loans offered directly by the U.S. Department of Education.  
528 Such rates and fees are specified in section 455 of the Higher Education Act of  
529 1965 (20 U.S.C. 1087e). This subsection only applies to credit unions that offer  
530 education loans.  
531
- 532 f) Activities in Cooperation with Community Development Financial Institutions,  
533 Minority- or Women-Owned Financial Institutions and Low-Income Credit  
534 Unions. In assessing performance to this Part, the Secretary shall consider:  
535 capital investment, loan participation, and other ventures undertaken by the credit  
536 union in cooperation with Community Development Financial Institutions as  
537 defined in regulations issued by the U.S. Department of the Treasury, with  
538 minority- and women-owned financial institutions as defined in 12 U.S.C.  
539 2907(b) and credit unions designated as low-income or minority depository  
540 institutions by the National Credit Union Administration. Such activities must  
541 help meet the credit needs of local communities in which Community  
542 Development Financial Institution, the minority- and women-owned financial  
543 institutions or low income or minority credit unions are chartered. To be  
544 considered, such activities need not also benefit the credit union’s assessment  
545 area. This subsection does not apply to credit unions designated as low-income or  
546 minority credit unions.  
547
- 548 g) Community Development Financial Institutions, Minority Depository Institutions  
549 and Low-Income Designated Credit Unions. In assessing performance pursuant to  
550 this Part, the Secretary shall consider whether a credit union is certified or  
551 designated as a Community Development Financial Institution, Minority  
552 Depository Institution and/or Low-Income Designated Credit Union. The  
553 Department may require documentation to confirm the credit union still meets the  
554 criteria for the certification or designation.  
555
- 556 h) Disparity Study. The Secretary may retain qualified persons to design and conduct  
557 a study, and prepare and report findings and conclusions to the Secretary (1) to

identify and describe geographies in Illinois exhibiting significant disparities based on race or other protected characteristics in access to relevant financial products or services, and (2) to develop methods and procedures to identify policies, procedures, patterns, or practices that have disparate impact or discriminatory effects. Following the publication of this study, the Secretary may incorporate the findings, conclusions and other results from the study into the examination process.

## **Section 185.220 Lending Test**

### **a) Scope of test.**

- 1) The lending test evaluates a credit union's record of helping to meet the credit needs of its assessment area through its lending activities by considering a credit union's home mortgage, small business and community development lending. If consumer lending constitutes a substantial majority of a credit union's business, the Secretary will evaluate the credit union's consumer lending in one or more of the following categories: motor vehicle, credit card, home equity, other secured, and other unsecured loans. At a credit union's option, the Secretary will also evaluate one or more categories of consumer lending, if the credit union has collected and maintained the data for each category that the credit union elects to have the Secretary evaluate as required in Section 185.410(c)(1).
- 2) The Secretary considers originations and initial purchases of loans. The Secretary will also consider any other loan data the credit union may choose to provide, including data on loans outstanding, commitments and letters of credit.
- 3) A credit union may ask the Secretary to consider loans originated or purchased by consortia in which the credit union participates or by third parties in which the credit union has invested only if the loans meet the definition of community development loans and only in accordance with Section 185.220(d). The Secretary will not consider these loans under any criterion of the lending test except the community development lending criterion.

### **b) Performance Criteria. The Secretary evaluates a credit union's lending performance considering all of the applicable assessment factors in Section 185.200 and pursuant to the following criteria:**

- 1) Geographic distribution. The geographic distribution of the credit union's home mortgage small business, and consumer loans, if applicable, based on the loan location, including:
  - A) the dispersion of lending in the credit union's assessment area(s);
  - B) the number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the credit union's assessment area; and
  - C) The number and amount of loans in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to loans by a Disparity Study incorporated into the examination process under Section 185.210(h).
- 2) Borrower characteristics. The distribution, of the credit union's home mortgage, small business loans, if applicable, and consumer loans, if applicable, based on borrower characteristics, including the number and amount of:
  - A) home mortgage loans to low-, moderate-, middle-, and upper-income individuals, including loans to assist existing low- and moderate-income residents to be able to remain in affordable housing in their neighborhoods;
  - B) small business loans to businesses with gross annual revenues of \$1 million or less;
  - C) small business loans by loan amount at origination; and
  - D) consumer loans, to low-, moderate-, middle-, and upper- income individuals; and
  - E) Home mortgage, small business, small farm, and consumer loans, if applicable, to members of identified racial or other groups in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to loans by a Disparity Study incorporated into the examination process under Section 185.210(h).
- 3) Community development lending. The credit union's community development lending, including the number and amount of community development loans, and their complexity and innovativeness, as well as

the credit union's community development lending performance in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to community development loans by a Disparity Study incorporated into the examination process under Section 185.210(h); and

- 4) Innovative or flexible lending practices. The credit union's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- and moderate-income individuals or geographies. In assessing performance pursuant to this Part, the Secretary shall consider whether a credit union offers Special Credit Programs that are in conformity with and explicitly authorized by the Equal Credit Opportunity Act, 15 U.S.C. § 1691(c), Regulation B, 12 C.F.R. § 1002.8, and the Illinois Human Rights Act 775 ILCS 5/4-104(C). The credit union must be able show that the program will fall under any of the following: (1) any credit assistance program expressly authorized by federal or state law for the benefit of an economically disadvantaged class of persons; (2) any credit assistance program offered by credit union for the benefit of its members or an economically disadvantaged class of persons; or (3) any special credit program offered by a credit union, or in which such an organization participates to meet special social needs, if it meets certain standards prescribed in 12 C.F.R. § 1002.8(a)(3)(i)

c) Affiliate lending.

- 1) At a credit union's option, the Secretary will consider loans by an affiliate of the credit union, if the credit union provides data on the affiliate's loans pursuant to Section 185.410.
- 2) The Secretary considers affiliate lending subject to the following constraints:
  - A) no affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase and in this regard the credit union shall monitor and keep records of whether such claims exist; and
  - B) if a credit union elects to have the Secretary consider loans within a particular lending category made by one or more of the credit union's affiliates in a particular assessment area, the credit union shall elect to have the Secretary consider, in accordance with Section 185.220(c)(1), all the loans within that lending category in



that particular assessment area made by all of the credit union's affiliates.

- 3) The Secretary does not consider affiliate lending in assessing a credit union's performance under Section 185.220(b)(2)(A).
- d) Lending by a consortium or a third party. Community development loans originated or purchased by a consortium in which the credit union participates or by a third party in which the credit union has invested:
  - 1) will be considered, at the credit union's option, if the credit union reports the data pertaining to these loans under Section 185.410; and
  - 2) may be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor:
    - A) may claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase and in this regard the credit union shall monitor and keep records of whether such claims exist; or
    - B) may claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.
- e) Lending performance rating. The Secretary rates a credit union's lending performance as provided in 185.APPENDIX A (Ratings).

#### **Section 185.230 Investment Test**

- a) Scope of test. The investment test evaluates a credit union's record of helping to meet the credit needs of its assessment area through qualified investments that benefit its assessment area or a broader statewide or regional area that includes the credit union's assessment area.
- b) Exclusion. Activities considered under the lending or service tests shall not be considered under the investment test.
- c) Affiliate investment. At a credit union's option, the Secretary will consider, in its assessment of a credit union's investment performance, a qualified investment made by an affiliate of the credit union, if the qualified investment is not claimed by any other institution.

- d) Disposition of branch premises. Donating, selling on favorable terms, or making available on a rent-free basis a branch of the credit union that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 U.S.C. 2907(b)) or to credit unions designated by the National Credit Union Administration as low-income or minority depository institutions will be considered as a qualified investment.
- e) Performance criteria. The Secretary evaluates the investment performance of a credit union considering all of the applicable assessment factors in Section 185.200 and pursuant to the following criteria:
  - 1) the dollar amount of qualified investments;
  - 2) the innovativeness or complexity of qualified investments;
  - 3) the responsiveness of qualified investments to credit and community development needs
  - 4) the degree to which the qualified investments assist existing low- and moderate-income residents to be able to remain in affordable housing in their neighborhoods; and
  - 5) the degree to which the qualified investments are not routinely provided by private investors.
  - 6) The credit union's performance on the above criteria in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to qualified investments by a Disparity Study incorporated into the examination process under Section 185.210(h).
- f) Investment performance rating. The Secretary rates a credit union's investment performance as provided in 185.APPENDIX A (Ratings).

#### **Section 185.240 Service Test**

- a) Scope of test. The service test evaluates a credit union's record of helping to meet the credit needs of its assessment area by analyzing both the availability and effectiveness of a credit union's systems for delivering retail banking services and the extent and innovativeness of its community development services. Credit unions that provide all or a majority of their services via mobile and other digital channels must fulfill their obligation to meet the financial service needs of their

assessment areas, including low-income to moderate-income neighborhoods, consistent with their common bond.

- b) Area(s) benefited. Community development services must benefit a credit union's assessment area or a broader Statewide or regional area that includes the credit union's assessment area.
- c) Affiliate service. At a credit union's option, the Secretary will consider, in his or her assessment of a credit union's service performance, a community development service provided by an affiliate of the credit union, if the community development service is not claimed by any other institution and in this regard the bank shall monitor and keep records of whether such claims exist.
- d) Performance criteria -- Retail Banking Services. The Secretary evaluates the availability and effectiveness of a credit union's systems for delivering retail banking services, considering all of the applicable assessment factors in Section 185.200 and pursuant to the following criteria:
  - 1) the current distribution of the credit union's branches among low-, moderate-, middle-, and upper-income geographies, if applicable;
  - 2) in the context of its current distribution of the credit union's branches, the credit union's record of opening and closing branches, particularly branches located in low- and moderate-income geographies or primarily serving low- and moderate- income individuals;
  - 3) the availability and effectiveness of alternative systems for delivering retail banking services (e.g., ATMs, ATMs not owned or operated by or exclusively for the credit union, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income geographies and to low- and moderate-income individuals; and
  - 4) the range of services provided in low-, moderate-, middle-, and upper-income geographies, if applicable, and the degree to which the services are tailored to meet the needs of those geographies; and
  - 5) The credit union's record of effectively marketing its retail banking services and products to unbanked or underbanked persons and offering retail banking services and products targeted to meet the needs of unbanked and underbanked persons. In determining whether a credit union offers retail banking services and products targeted to meet the needs of unbanked and underbanked persons, the Department shall consider:

- A) whether the credit union is BankOn certified or offers accounts substantially and materially similar to BankOn certified accounts; or
  - B) whether the credit union offers financial services and products to users of alternative financial products or services, provided that, that the credit union has affirmatively and reasonably demonstrated that:
    - i) the credit union offers such accounts or such financial services and products in conjunction with focused and sustained marketing efforts reasonably designed to reach unbanked and underbanked persons;
    - ii) unbanked and underbanked persons may reasonably conveniently obtain or use such accounts or such financial services and products; and
    - iii) the credit union offers such accounts or such financial services and products at a cost to the unbanked and underbanked persons that is significantly lower than would otherwise be incurred by the users of alternative financial products or services.
  - 6) The credit union's performance on the above criteria in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to retail banking services by a Disparity Study incorporated into the examination process under Section 185.210(h).
- e) Performance criteria -- Community Development Services. The Secretary evaluates community development services considering all of the applicable assessment factors in Section 185.200 and pursuant to the following criteria:
- 1) the extent to which the credit union provides community development services; and
  - 2) the innovativeness and responsiveness of community development services.
  - 3) The credit union's performance on the above criteria in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics, if any, in access to community development services by a

Disparity Study incorporated into the examination process under Section 185.210(h).

- f) Service performance rating. The Secretary rates a credit union's service performance as provided in 185.APPENDIX A (Ratings).

**Section 185.250 Community Development Test for Wholesale or Limited Purpose Credit Unions**

- a) Scope of test. The Secretary assesses a wholesale or limited purpose credit union's record of helping to meet the credit needs of its assessment area under the community development test through its community development lending, qualified investments, or community development services.
- b) Designation as a wholesale or limited purpose credit union. In order to receive a designation as a wholesale or limited purpose credit union, a credit union shall file a request, in writing, with the Secretary, at least six months prior to the proposed effective date of the designation. If the Secretary approves the designation, it remains in effect until the credit union requests revocation of the designation or until one year after the Secretary notifies the credit union that the Secretary has revoked the designation on his/her own initiative.
- c) Performance criteria. The Secretary evaluates the community development performance of a wholesale or limited purpose credit union considering all of the applicable assessment factors in Section 185.200 and pursuant to the following criteria:
  - 1) the number and amount of community development loans (including originations and initial purchases of loans and other community development loan data provided by the credit union, such as data on loans outstanding, commitments, and letters of credit), qualified investments, or community development services;
  - 2) the use of innovative or complex qualified investments, community development loans, or community development services and the extent to which the investments are not routinely provided by private investors; and
  - 3) the credit union's responsiveness to credit and community development needs.
- d) Indirect activities. At a credit union's option, the Secretary will consider in its community development performance assessment:

- 1) qualified investments or community development services provided by an affiliate of the credit union, if the investments or services are not claimed by any other institution; and
  - 2) community development lending by affiliates, consortia and third parties, subject to the requirements and limitations in Sections 185.220(c) and (d).
- e) Benefit to assessment area.
- 1) Benefit inside assessment area. The Secretary considers all qualified investments, community development loans, and community development services that benefit areas within the credit union's assessment area or a broader statewide or regional area that includes the credit union's assessment area.
  - 2) Benefit outside assessment area. The Secretary considers the qualified investments, community development loans, and community development services that benefit areas outside the credit union's assessment area, if the credit union has adequately addressed the needs of its assessment area.
- f) Community development performance rating. The Secretary rates a credit union's community development performance as provided in 185.APPENDIX A (Ratings).

#### **Section 185.260 Small Credit Union Performance Standards**

- a) Performance criteria.
- 1) The Secretary evaluates the record of a small credit union that is not an intermediate small credit union of helping to meet the credit needs of its assessment area pursuant to all of the applicable assessment factors in Section 185.200 and subsection (b).
  - 2) The Secretary evaluates the record an intermediate small credit union, of helping to meet the credit needs of its assessment area pursuant to all of the applicable assessment factors in Section 185.200, subsections (b) and (c).
- b) Lending test. A small credit union's lending performance is evaluated pursuant to the following criteria:
- 1) the credit union's loan-to-share ratio, adjusted for seasonal variation and, as appropriate, other lending-related activities, such as loan originations

for sale to the secondary markets, community development loans, or qualified investments;

- 2) the credit union's record of lending to and, as appropriate, engaging in other lending-related activities for borrowers of different income levels and businesses of different sizes;
- 3) the geographic distribution of the credit union's loans in the context of its relevant field of membership;
- 4) the credit union's record of taking action, if warranted, in response to written complaints about its performance in helping to meet credit needs in its assessment area and its performance with regard to fair lending policies and practices; and
- 5) the origination of loans to businesses with gross annual revenues of \$1,000,000 or less, particularly those in low-income and moderate-income neighborhoods. Subsection (5) applies only to credit unions that make business loans.

c) Community Development Test. An intermediate small credit union's community development performance is also evaluated pursuant to the following criteria:

- 1) the number and amount of community development loans;
- 2) the extent to which the credit union provides community development services;
- 3) the credit union's responsiveness through such activities to community development lending, investment, and service needs; and
- 4) at the election of the credit union, the number and amount of qualified investments.

d) Small credit union performance rating. The Secretary considers all of the applicable assessment factors in Section 185.200 and rates the performance of a credit union evaluated under Section 185.260 as provided in 185.APPENDIX A (Ratings).

## **Section 185.270 Strategic Plan**

- a) Alternative election. The Secretary will assess a credit union's record of helping to meet the credit needs of its assessment area considering all of the applicable assessment factors in Section 185.200 under a strategic plan if:
  - 1) the credit union has submitted the plan to the Secretary as provided for in Section 185.270;
  - 2) the Secretary has approved the plan;
  - 3) the plan is in effect; and
  - 4) the credit union has been operating under an approved plan for at least one year.
- b) Data reporting. The Secretary's approval of a plan does not affect the credit union's obligation, if any, to report data as required by Section 185.41.
- c) Plans in general.
  - 1) Term. A plan may have a term of no more than five years, and any multi-year plan must include annual interim measurable goals under which the Secretary will evaluate the credit union's performance.
  - 2) Treatment of affiliates. Affiliated credit unions may prepare a joint plan if the plan provides measurable goals for each credit union. Activities may be allocated among credit unions at the credit union's option, provided that the same activities are not considered for more than one credit union.
- d) Public participation in plan development. Before submitting a plan to the Secretary for approval, a credit union shall:
  - 1) informally seek suggestions from members of the public in its assessment area covered by the plan while developing the plan;
  - 2) once the credit union has developed a plan, formally solicit public comment on the plan for at least 30 days by publishing notice in at least one newspaper of general circulation in each assessment area covered by the plan and on the internet; and
  - 3) during the period of formal public comment, make copies of the plan available for review by the public at no cost at all offices of the credit union in any assessment area covered by the plan and provide copies of



the plan upon request for a reasonable fee to cover copying and mailing, if applicable.

- e) Submission of plan. The credit union shall submit its plan to the Secretary at least six months prior to the proposed effective date of the plan. The credit union shall also submit with its plan a description of its informal efforts to seek suggestions from members of the public, any written public comment received, and, if the plan was revised in light of the comment received, the initial plan as released for public comment.

- f) Plan content.

- 1) Measurable goals.

- A) A credit union shall specify in its plan measurable goals for helping to meet the credit needs of each assessment area covered by the plan, particularly the needs of low- and moderate-income geographies and low- and moderate-income individuals, through lending, investment, and services, as appropriate and considering all of the applicable assessment factors in Section 185.200.

- B) A credit union shall address in its plan all applicable performance categories and, unless the credit union has been designated as a wholesale or limited purpose credit union, shall emphasize lending and lending-related activities. Nevertheless, a different emphasis, including a focus on one or more performance categories, may be appropriate if responsive to the characteristics and credit needs of its assessment area, considering public comment and the credit union's capacity and constraints, product offerings, and business strategy.

- 2) Confidential information. A credit union may submit additional information to the Secretary on a confidential basis which shall not be deemed a public record as defined in [5 ILCS 140/2] or be subject to the public disclosure provisions of [5 ILCS 140/1], but the goals stated in the plan must be sufficiently specific to enable the public and the Secretary to judge the merits of the plan.

- 3) Satisfactory and outstanding goals. A credit union shall specify in its plan measurable goals that constitute "satisfactory" performance. A plan may specify measurable goals that constitute "outstanding" performance. If a credit union submits, and the Secretary approves, both "satisfactory" and

"outstanding" performance goals, the Secretary will consider the credit union eligible for an "outstanding" performance rating.

- 4) Election if satisfactory goals not substantially met. A credit union may elect in its plan that, if the credit union fails to meet substantially its plan goals for a satisfactory rating, the Secretary will evaluate the credit union's performance under the lending, investment, and service tests, the community development test, or the small credit union performance standards, as appropriate.

g) Plan approval.

- 1) Timing. The Secretary will act upon a plan within 90 calendar days after the Secretary receives the complete plan and other material required under Section 185.270(e) and (f). If the Secretary fails to act within this time period, the plan shall be deemed approved unless the Secretary extends the review period in writing.
- 2) Public participation. In evaluating the plan's goals, the Secretary considers the public's involvement in formulating the plan, written public comment on the plan, and any response by the credit union to public comment on the plan.
- 3) Criteria for evaluating plan. The Secretary considers all of the applicable assessment factors in Section 185.200 and evaluates a plan's measurable goals using the following criteria, as appropriate and applicable:
  - A) the extent and breadth of lending or lending-related activities, including, as appropriate, the distribution of loans among different geographies, businesses and farms of different sizes, and individuals of different income levels, the extent of community development lending, and the use of innovative or flexible lending practices to address credit needs;
  - B) the amount and innovativeness, complexity, and responsiveness of the credit union's qualified investments; and
  - C) the availability and effectiveness of the credit union's systems for delivering retail banking services and the extent and innovativeness of the credit union's community development services.

- h) Plan amendment. During the term of a plan, a credit union may request the Secretary to approve an amendment to the plan on grounds that there has been a material change in circumstances. The credit union shall develop an amendment to a previously approved plan in accordance with the public participation requirements of Section 185.270(d).
- i) Plan assessment. The Secretary approves the goals and assesses performance under a plan as provided for in 185.APPENDIX A (Ratings).

#### **Section 185.280 Assigned Ratings**

- a) Ratings in general. Subject to Section 185.280(b) and (c), the Secretary assigns to a credit union a rating of "outstanding", "satisfactory", "needs to improve", or "substantial noncompliance" based on the credit union's performance under the lending, investment and service tests, the community development test, the small credit union's performance standards, the intermediate small credit union's standards, or an approved strategic plan, as applicable.
- b) Lending, investment, and service tests. The Secretary assigns a rating for a credit union assessed under the lending, investment, and service tests in accordance with the following principles:
  - 1) a credit union that receives an "outstanding" rating on the lending test receives an assigned rating of at least "satisfactory";
  - 2) a credit union that receives an "outstanding" rating on both the service test and the investment test and a rating of at least "satisfactory" on the lending test receives an assigned rating of "outstanding"; and
  - 3) no credit union may receive an assigned rating of "satisfactory" or higher unless it receives a rating of at least "satisfactory" on the lending test;
- c) Effect of evidence of discriminatory or other illegal credit practices.
  - 1) The Secretary's evaluation of a credit union's ILCRA performance is adversely affected by evidence of discriminatory or other illegal credit practices in any geography by the credit union or in any assessment area by any affiliate whose loans have been considered as part of the credit union's lending performance. In connection with any type of lending activity described in Section 185.220(a), evidence of discriminatory or other credit practices that violate an applicable law, rule, or regulation includes, but is not limited to:

- A) Discrimination against applicants on a prohibited basis in violation, for example, of the Equal Credit Opportunity Act or the Fair Housing Act, including, for example, relying on or giving force or effect to discriminatory appraisals to deny loan applications where the covered financial institution knew or should have known of the discrimination;
  - B) Violations of the Home Ownership and Equity Protection Act;
  - C) Violations of section 5 of the Federal Trade Commission Act;
  - D) Violations of section 8 of the Real Estate Settlement Procedures Act;
  - E) Violations of the Truth in Lending Act provisions regarding a consumer's right of rescission
  - F) Violations of the Article 4 [Financial Credit] of Illinois Human Rights Act [775 ILCS 5/Art. 4];
  - G) Violations of the Illinois High Risk Home Loan Act [815 ILCS 137]; and
  - H) Violations of the Illinois Fairness in Lending Act [815 ILCS 120].
- 2) In determining the effect of evidence of practices described in subsection (c)(1) on the credit union's assigned rating, the Secretary considers the nature, extent, and strength of the evidence of the practices; the policies and procedures that the credit union (or affiliate, as applicable) has in place to prevent the practices; any corrective action that the credit union (or affiliate, as applicable) has taken or has committed to take, including voluntary corrective action resulting from self-assessment; and any other relevant information.

#### **Section 185.290 Effect of ILCRA Performance on Applications**

- a) ILCRA Performance. Among other factors, the Secretary shall take into account the record of performance under the ILCRA of each credit union and its parent company, including all subsidiaries thereof, relative to this Act submitting applications for the establishment of a branch, office, or other facility, the relocation of a main office, branch, office, or other facility, a license renewal, change in control of a covered financial institution, or a merger or consolidation with or the acquisition of assets or assumption of liabilities of any covered

financial institution, out-of-state bank, credit union, or residential mortgage licensee, national bank or credit union, or foreign financial institution. In evaluating any other application which requires the Secretary's approval, the Secretary may take into account the record of performance under the ILCRA of each credit union and its parent company, including all subsidiaries thereof. Nothing in this Section requires a submission of an application which is not otherwise required under applicable law.

b) Interested parties. The Secretary takes into account any views submitted by interested parties in accordance with the public notice posted pursuant to Section 35-20 of ILCRA.

c) Denial. A credit union's record of ILCRA performance may be the basis for denying any application required to be submitted to the Secretary.

#### SUBPART C: RECORDS, REPORTING, AND DISCLOSURE REQUIREMENTS; EXAMINATIONS; ENFORCEMENT

##### **Section 185.400 Assessment Area Delineation**

a) The Secretary does not evaluate the institution's delineation of its assessment area as a separate performance criterion, but the Secretary reviews the delineation for compliance with the requirements of this Section.

b) A credit union shall delineate its field of membership, including persons eligible for membership, as its assessment area. A credit union may choose to include or exclude any community based common bonds located outside of the State of Illinois. A credit union may choose to include or exclude any members or persons eligible for membership pursuant to its occupational or associational common bonds located outside of the State of Illinois.

c) Notwithstanding subsection (a), the Secretary may approve a credit union to designate only its current members as its assessment area, or an assessment area that does not otherwise comply with the requirements set forth in subsection (a) if the credit union demonstrates that satisfying the requirements of subsection (a) would be impractical and unreasonable in its specific case. Any designation pursuant to this subsection shall not reflect illegal discrimination and may not arbitrarily exclude low-and moderate-income geographies. In evaluating whether compliance with subsection (a) would be impractical and unreasonable for a credit union in its specific case, the Secretary shall consider:

1) The size of the credit union;

- 2) The financial health of the credit union; and
- 3) Any other relevant consideration presented by the credit union.
- d) A credit union shall modify its assessment area whenever there is a modification to its field of membership pursuant to subsection (b) unless it receives approval from the Secretary to use a different assessment area pursuant to subsection (c).

#### **Section 185.410 Data Collection, Reporting, and Disclosure**

- a) Credit unions shall comply with all data collection, reporting and disclosure requirements as required by applicable law; and
- b) A credit union, except a credit union that meets the definition of a small credit union, which is subject to HMDA reporting requirements, shall report to the Department the location of each home mortgage loan application, origination, or purchase outside the credit union's assessment area in accordance with the requirements of 12 CFR 1003.
- c) Optional data collection and maintenance.
  - 1) Consumer Loans. A credit union may collect and maintain in machine readable form (as prescribed by the Secretary) data for consumer loans originated or purchased by the credit union for consideration under the lending test. A credit union may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, home equity, other secured, and other unsecured. If the credit union maintains data for loans in a certain category, it shall maintain data for all loans originated or purchased within that category. The credit union shall maintain data separately for each category, including for each loan:
    - A) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;
    - B) The loan amount at origination or purchase;
    - C) The loan location; and
    - D) The gross annual income of the borrower that the credit union considered in making its credit decision.
  - 2) Other loan data. At its option, a credit union may provide other information concerning its lending performance, including additional loan

distribution data or any other data required or permitted to be reported by banks under Federal or state banking regulations.

- d) Data on affiliate lending. A credit union that elects to have the Secretary consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain, and report for those loans the data that the credit union would have collected, maintained, and reported had the loans been originated or purchased by the credit union. For home mortgage loans, the credit union shall also be prepared to identify the home mortgage loans reported under 12 CFR Part 1003 (Home Data Disclosure) by the affiliate.
- e) Data on lending by a consortium or a third party. A credit union that elects to have the Secretary consider community development loans by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the credit union would have reported had the loans been originated or purchased by the credit union.

#### **Section 185.420 Content and Availability of Public File**

- a) Information available to the public. A credit union shall maintain a public file that includes the following information:
  - 1) all written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the credit union's performance in helping to meet community credit needs, and any response to the comments by the credit union, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the credit union or publication of which would violate specific provisions of law;
  - 2) a copy of the public section of the credit union's most recent ILCRA Performance Evaluation prepared by the Secretary. The credit union shall place this copy in the public file within 30 business days after its receipt from the Secretary. A copy of the public section includes:
    - A) The assessment factors utilized to determine the credit union's descriptive rating;
    - B) The Secretary's conclusion with respect to each such assessment factor;
    - C) A discussion of the facts supporting such conclusions;

- D) The credit union's descriptive rating and the basis therefor;
    - E) The assigned overall rating;
    - F) Any other information the Secretary finds that the ends of justice and the public advantage will be served by the disclosure; and
    - G) A summary of public comments.
  - 3) a list of the credit union's branches, their street addresses, and geographies;
  - 4) a list of branches opened or closed by the credit union during the current year and each of the prior two calendar years, their street addresses, and geographies;
  - 5) a list of services (including hours of operation, available loan and deposit products, and transaction fees) generally offered at the credit union's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a credit union may include information regarding the availability of alternative systems for delivering retail banking services (*e.g.*, ATMs, ATMs not owned or operated by or exclusively for the credit union, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs);
  - 6) a map of each assessment area showing the boundaries of the area and identifying the geographies contained within the area, either on the map or in a separate list, provided however, a map of the assessment area does not need to be maintained if the credit union's membership by-law provisions do not correspond to a defined geographic area. If a map of the assessment area does not need to be maintained the credit union must provide other documentation reflecting its assessment area;
  - 7) the field of membership as defined in the credit union's Article of Incorporation and Article III of the bylaws; and
  - 8) any other information the credit union chooses.
- b) Additional information available to the public.



- 1) Credit Unions other than small credit unions. A credit union, except a small credit union or a credit union that was a small credit union during the prior calendar year, shall include in its public file the following information pertaining to the credit union and its affiliates, if applicable, for each of the prior two calendar years. If the credit union has elected to have one or more categories of its consumer loans considered under the lending test, for each of these categories, the number and amount of loans:
  - A) to low-, moderate-, middle-, and upper-income individuals;
  - B) located in low-, moderate-, middle-, and upper-income census tracts; and
  - C) located inside the credit union's assessment area and outside the credit union's assessment area.
- 2) Credit Union required to report Home Mortgage Disclosure Act (HMDA) data. A credit union required to report home mortgage loan data pursuant 12 CFR Part 1003 (Home Disclosure Data) shall include in its public file a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) Website at [www.consumerfinance.gov/hmda](http://www.consumerfinance.gov/hmda). In addition, a credit union that elected to have the Secretary consider the mortgage lending of an affiliate for any of these years shall include in its public file the affiliate's HMDA Disclosure Statement for those years. The credit union shall place the statement(s) in the public file within three business days after its receipt.
- 3) Small credit unions. A small credit union or a credit union that was a small credit union during the prior calendar year shall include in its public file the credit union's loan-to-share ratio by asset class for each quarter of the prior calendar year and, at its option, additional data on its loan-to-share ratio.
- 4) Credit unions with strategic plans. A credit union that has been approved to be assessed under a strategic plan shall include in its public file a copy of that plan. A credit union need not include information submitted to the Secretary on a confidential basis in conjunction with the plan.
- 5) Credit unions with less than satisfactory ratings. A credit union that received a less than satisfactory rating during its most recent examination shall include in its public file a description of its current efforts to improve

its performance in helping to meet the credit needs of its entire community. The credit union shall update the description quarterly.

- c) Location of public information. A credit union shall make available to the public for inspection upon request and at no cost the information required in this Section as follows:
  - 1) at the main office and, if an interstate credit union, at one branch office in each state, all information in the public file; and
  - 2) at each branch, if any:
    - A) a copy of the public section of the credit union's most recent ILCRA Performance Evaluation and a list of services provided by the branch; and
    - B) within five calendar days of the request, all the information in the public file relating to the assessment area in which the branch is located.
- d) Copies. Upon request, a credit union shall provide copies, on paper, electronically, or in another form acceptable to the person making the request, of the information in its public file. The credit union may charge a reasonable fee not to exceed the cost of copying and mailing, if applicable. A credit union shall not charge a fee if the information is only provided electronically.
- e) Updating. Except as otherwise provided in Section 185.420, a credit union shall ensure that the information required by Section 185.420 is current as of April 1 of each year.
- f) Notwithstanding the foregoing, this Section does not prohibit a credit union from establishing and implementing standards and procedures that a person must follow to obtain the public file. Such standards and procedures shall provide reasonable access to the public file. In determining whether such standards and procedures are reasonable, the Secretary shall consider:
  - 1) The credit union's size and financial condition;
  - 2) The location of the credit union and its hours of operation;
  - 3) Whether the public file is available electronically; and
  - 4) Any other unique circumstances presented by the credit union.

- g) A credit union may request a written finding from the Secretary that its standards and procedures provide reasonable public access to the file from the Secretary. Any credit union which relies on such a finding shall not be subject to an enforcement action by the Department for a violation of this Section. Unless extended by the Secretary in writing, any such finding shall expire at the end of the credit union's next examination.

#### **Section 185.430 Public Notice by Credit Union**

A credit union shall provide in the public lobby of its main office and each of its branches, if any, and on its website, the appropriate public notice set forth in 185.APPENDIX B. Only a branch of a credit union having more than one assessment area shall include the bracketed material in the notice for branch offices. Only a credit union that is an affiliate of a holding company shall include the second to the last sentence of the notices. A credit union shall include the last sentence of the notices only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional credit unions.

#### **Section 185.440 Publication of Planned Examination Schedule**

The Secretary publishes at least 30 days in advance of the beginning of each calendar quarter a list of credit unions scheduled for ILCRA examinations in that quarter.

#### **Section 185.450 Alternative Examination Procedures for Credit Unions with Assets Less than \$10,000,000**

- a) At the time of examination, any credit union with less than \$10,000,000 as shown by its Year-end Call Report may elect to use the Alternative Examination Procedures as set forth in 185.APPENDIX D.
- b) For any credit union which elects to use the Alternative Examination Procedures, the Secretary shall apply the assessment factors, as provided in Section 185.200. The written evaluation shall comply with all requirements for a written evaluation set forth in Section 15(b) of the ILCRA.
- c) A credit union who elects to use the Alternative Examination Procedures shall be charged a fee of \$2,200. The Secretary, in their sole discretion, may waive this fee for a credit union with total assets of \$1,000,000 or less.
- d) Any credit union which receives an overall rating of "substantial noncompliance" on its last examination shall not be eligible to use the Alternative Examination Procedures on its next examination.

- e) Nothing contained in this Section, prohibits the Secretary from considering other sources of information including, but not limited to, evidence of discriminatory or other illegal credit practices, or public comments in assessing whether a credit union is meeting the financial services needs of local communities pursuant to Section 185.200.
- f) The Alternative Examination Procedures shall in no way limit public participation.
- g) A credit union electing to use the Alternative Examination Procedures does not affect the credit union's obligation, if any to report data as required by Section 185.410.
- h) A credit union electing to use the Alternative Examination Procedures does not affect the credit union's obligation to maintain a public file as required by Section 185.420.
- i) A credit union that elects to use the Alternative Examination Procedures shall have at least three months to complete the examination. The credit union shall have the opportunity to review its proposed examination response with an examiner prior to the due date.

#### **Section 185.460 Examination Authority and Cooperation**

- a) Pursuant to the Secretary's authority under the ILCRA, including, but not limited to, Sections 35-15 and 35-25 thereof, the Secretary and his or her appointees may examine the entire books, records, documents, and operations of each credit union, its parent company, and its subsidiaries, affiliates, or agents, and may examine any credit union, its parent company's or its subsidiaries', affiliates', or agents' officers, directors, employees, and agents under oath.
- b) A credit union shall be required to fully cooperate in any examination conducted pursuant to this Part. Cooperation includes, but is not limited to:
  - 1) timely and full production of books, records, and documents, in any reasonable format requested by the Department; and
  - 2) ensuring all officers, directors, employees, and agents of the credit union are available for depositions or interviews upon reasonable notice.
- c) Except as otherwise specified in ILCRA or this Part, examination related to this Part shall be conducted consistent with 205 ILCS 305/9/(3.5), 38 Ill. Adm. Code 190.25, and accompanying guidelines.

**Section 185.470 Examination Schedule**

- a) The Secretary may conduct a discretionary ILCRA examination of a credit union at any time.
- b) Initial CRA examinations of credit unions shall be conducted according to the following schedule:
  - 1) Initial ILCRA examinations of credit unions with total assets of \$1 billion or more, as shown by its Year-end Call Report, shall not be conducted until at least six months after the rules contained in this Part are filed with the Secretary of the State and shall be conducted within 3 years.
  - 2) Initial ILCRA examinations of credit unions with total assets of \$250,000,000 to less than \$1 billion, as shown by its Year-end Call Report, shall not be conducted until at least six months after the rules contained in this Part are filed with the Secretary of State and shall be conducted within 4 years.
  - 3) Initial ILCRA examinations of credit unions with total assets of \$10,000,000 but less than \$250,000,000, as shown by its Year-end Call Report, shall not be conducted until at least one year after the rules contained in this Part are filed with the Secretary of State and shall be conducted within 5 years.
  - 4) Initial ILCRA examinations of credit unions with total assets of less than \$10,000,000, as shown by its Year-end Call Report, shall not be conducted until at least one year after the rules contained in this Part are filed with the Secretary of State shall be conducted within 6 years.
- c) Mandatory ILCRA examinations of credit unions shall be conducted according to the following schedule:
  - 1) ILCRA examinations of credit unions with total assets of greater than or equal to \$250,000,000, as shown by its Year-end Call Report, shall be conducted as follows:
    - A) For a credit union that is assigned an “outstanding” or “satisfactory” rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within 3 years of the issuance of the report of examination of its most recent prior examination under the ILCRA.

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- 1581 B) For a credit union that is assigned a “needs improvement” rating in
- 1582 its most recent prior examination under the ILCRA, the next
- 1583 examination shall be initiated within 2 years of the issuance of the
- 1584 report of examination of its most recent prior examination under
- 1585 the ILCRA.
- 1586
- 1587 C) For a credit union that is assigned a “substantial noncompliance”
- 1588 rating in its most recent prior examination under the ILCRA, the
- 1589 next examination shall be initiated within 1 year of the issuance of
- 1590 the report of examination of its most recent prior examination
- 1591 under the ILCRA.
- 1592
- 1593 2) ILCRA examinations of credit unions with total assets of less than
- 1594 \$250,000,000, as shown by its Year-end Call Report, shall be conducted
- 1595 as follows:
- 1596
- 1597 A) For a credit union that is assigned an “outstanding” rating in its
- 1598 most recent prior examination under the ILCRA, the next
- 1599 examination shall be initiated within 5 years of the issuance of the
- 1600 report of examination of its most recent prior examination under
- 1601 the ILCRA.
- 1602
- 1603 B) For a credit union that is assigned a “satisfactory” rating in its most
- 1604 recent prior examination under the ILCRA, the next examination
- 1605 shall be initiated within 4 years of the issuance of the report of
- 1606 examination of its most recent prior examination under the ILCRA.
- 1607
- 1608 C) For a credit union that is assigned a “needs improvement” rating in
- 1609 its most recent prior examination under the ILCRA, the next
- 1610 examination shall be initiated within 2 years of the issuance of the
- 1611 report of examination of its most recent prior examination under
- 1612 the ILCRA.
- 1613
- 1614 D) For a credit union that is assigned a “substantial noncompliance”
- 1615 rating in its most recent prior examination under the ILCRA, the
- 1616 next examination shall be initiated within 1 year of the issuance of
- 1617 the report of examination of its most recent prior examination
- 1618 under the ILCRA.
- 1619
- 1620 d) A credit union may request a mid-cycle review to evaluate whether a less than
- 1621 satisfactory rating may be modified. Upon receipt of such request, the Secretary
- 1622 may, in his or her sole discretion, conduct an additional mid-cycle review. All

costs of such mid-cycle examination, as determined by the Secretary, shall be borne by the credit union and such costs shall be in addition to the examination fee required under Section 185.480.

**Section 185.480 Examination Fees**

a) Examination Fees

1) Time expended in the conduct of any examination of a credit union or its affiliates pursuant to Section 35-15 of the ILCRA shall be billed by the Department at a rate of \$2,200 per day. Fees will be billed following completion of the examination and shall be paid within 30 days after receipt of the billing. The examination fee shall increase by no more than 5% annually.

2) When out-of-state travel occurs in the conduct of any examination, the credit union shall make arrangements to reimburse the Department all charges for services such as travel expenses, including airfare, hotel and per diem incurred by the employee. These expenses are to be in accord with applicable travel regulations published by the Department of Central Management Services and approved by the Governor's Travel Control Board (80 Ill. Adm. Code 2800).

b) Examination Assessments. Each credit union shall pay to the Department its pro rata share of the cost for administration of the ILCRA for credit unions that exceeds the examination fees paid pursuant to subsection (a) of this Section, as estimated by the Department, for the current year and any deficit actually incurred in the administration of the Act in prior years. The aggregate assessment may not increase by more than 5% annually. Each credit union's pro rata share of an assessment shall be the percentage that the assets shown on the credit union's Consolidated Statement of Financial Condition and Income bears to the total assets of all credit unions covered by the ILCRA.

c) All fees received pursuant to this Part shall be deposited in the Credit Union Fund.

**Section 185.490 Implementation Period**

a) Credit unions with total assets of \$250,000,000 or more shall have six months from the effective date of this Part to comply with the requirements of this Part.

b) Credit unions with total assets less than \$250,000,000 shall have one year from the effective date of this Part to comply with the requirements of this Part.

**Section 185.500 Enforcement**

- a) Any failure to comply with a requirement of the ILCRA, this Part or other law referenced in ILCRA or this Part shall be grounds for enforcement actions as authorized under the ILCRA and under the Act, as applicable to the particular credit union.
- b) Any such failure to comply with a requirement of the ILCRA may also be grounds for referral to law enforcement or administrative authority with jurisdiction over the subject matter.
- c) In addition to any other action authorized by law, the Secretary may enter agreed upon orders, stipulations or settlement agreements for the purpose of resolving any such failure to comply.
- d) Except as otherwise specified in this Illinois Community Reinvestment Act or this Part, enforcement and supervision related to this Part shall be conducted consistent with 205 ILCS 305/9(3.5), 38 IL Adm. Code Section 190.25; and accompanying regulatory guidelines.

**Section 185.510 Provisions for Granting of Variance from Rules**

The Secretary may grant variances from this Part in individual cases where it is determined that in their sole discretion that:

- a) The provision from which the variance is granted is not statutorily mandated;
- b) No party will be injured by granting the variance; and
- c) The Rule from which the variance is granted would, in the particular case, be unnecessarily burdensome.



**Section 185.APPENDIX A Ratings**

a) Ratings in general.

- 1) In assigning a rating, the Secretary evaluates a credit union's performance under the applicable performance criteria in this Part, in accordance with Section 185.200, Section 185.210, and Section 185.280. Notwithstanding any contrary provision in this Part, the Secretary may use as a basis to adjust a credit union's overall rating consider the following:
  - A) Providing low-cost education loans to low-income borrowers;
  - B) Activities in cooperation with Community Development Financial Institutions, minority- or women-owned financial institutions;
  - C) Certification as a Community Development Financial Institution or designated as a Minority Depository Institution or Low-Income Designated credit union;
  - D) The offering of Special Credit Programs; and
  - E) The evidence of discriminatory or other illegal credit practices.
- 2) A credit union's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. A rating shall take into consideration the credit union's defined membership by-law provisions, as prescribed in 205 ILCS 305/15, and the lending and investment authority restrictions under 205 ILCS 305/59. The credit union's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.
- 3) The Secretary may take a credit union's lack of previous experience with ILCRA examinations into account and the length of the implementation period into consideration while assessing the performance of the credit union during its first ILCRA examination.

b) Credit Unions evaluated under the Lending and Service Tests.

- 1) Lending Performance Rating. The Secretary assigns each credit union's lending performance one of the five following ratings.

- A) Outstanding. The Secretary rates a credit union's lending performance "outstanding" if, in general, it demonstrates:
- i) Excellent responsiveness to credit needs in its assessment area, taking into account the number and amount of home mortgage, and consumer loans, if applicable, in its assessment area;
  - ii) An excellent geographic distribution of loans in its assessment area, provided however, a geographic analysis is relevant in the context of the credit union's membership by-law provisions;
  - iii) An excellent distribution, particularly in its assessment area(s), of loans among members of different income levels, given the product lines offered by the credit union;
  - iv) An excellent record of serving the credit needs of highly economically disadvantaged areas in its assessment area, and low-income members, including loans and other efforts to assist existing low- and moderate-income members to be able to remain in their neighborhoods, consistent with safe and sound operations;
  - v) Extensive use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- and moderate-income members or geographies;
  - vi) There is no evidence of loans that show an undue concentration and a systematic pattern of lending resulting in the loss of affordable housing units;
  - vii) An excellent record relative to fair lending policies and practices;
  - viii) It is a leader in making community development loans; and
  - ix) An excellent distribution of loans among individuals of different racial or other protected characteristics in areas identified as exhibiting significant disparities by race or other protected characteristics, if any, in access to lending products and services by a Disparity Study incorporated

into the examination process under Section 185.210(h) as compared to the baseline distributions in those areas as identified by the study.

- B) High satisfactory. The Secretary rates a credit union's lending performance "high satisfactory" if, in general, it demonstrates:
- i) Good responsiveness to credit needs in its assessment area, taking into account the number and amount of home mortgage, and consumer loans, if applicable, in its assessment area;
  - ii) A good geographic distribution of loans in its assessment area, provided however, a geographic analysis is relevant in the context of the credit union's membership by-law provisions;
  - iii) A good distribution, particularly in its assessment area, of loans among members of different income levels, given the product lines offered by the credit union;
  - iv) A good record of serving the credit needs of highly economically disadvantaged areas in its assessment area, and low-income members, including loans and other efforts to assist existing low- and moderate-income members to be able to remain in their neighborhoods, consistent with safe and sound operations;
  - v) Use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- and moderate-income members or geographies;
  - vi) There is no evidence of loans that show an undue concentration and a systematic pattern of lending resulting in the loss of affordable housing units;
  - vii) A good record relative to fair lending policies and practices; and
  - viii) It has made a relatively high level of community development loans.

- C) Low satisfactory. The Secretary rates a credit union's lending performance "low satisfactory" if, in general, it demonstrates:
- i) Adequate responsiveness to credit needs in its assessment area, taking into account the number and amount of home mortgage, and consumer loans, if applicable, in its assessment area;
  - ii) An adequate geographic distribution of loans in its assessment area, provided however, a geographic analysis is relevant in the context of the credit union's membership by-law provisions;
  - iii) An adequate distribution, particularly in its assessment area, of loans among members of different income levels, given the product lines offered by the credit union;
  - iv) An adequate record of serving the credit needs of highly economically disadvantaged areas in its assessment area, and low-income members, including loans and other efforts to assist existing low- and moderate-income members to be able to remain in their neighborhoods, consistent with safe and sound operations;
  - v) Limited use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- and moderate-income members or geographies;
  - vi) There is no evidence of loans that show an undue concentration and a systematic pattern of lending resulting in the loss of affordable housing units;
  - vii) An adequate record relative to fair lending policies and practices; and
  - ix) It has made an adequate level of community development loans.
- D) Needs to improve. The Secretary rates a credit union's lending performance "needs to improve" if, in general, it demonstrates:
- i) Poor responsiveness to credit needs in its assessment area, taking into account the number and amount of home

- 1870 mortgage, and consumer loans, if applicable, in its  
 1871 assessment area;  
 1872  
 1873 ii) A poor geographic distribution of loans, particularly to  
 1874 low- and moderate-income geographies, in its assessment  
 1875 area, provided however, a geographic analysis is relevant in  
 1876 the context of the credit union's membership by-law  
 1877 provisions;  
 1878  
 1879 iii) A poor distribution, particularly in its assessment area, of  
 1880 loans among members of different income levels, given the  
 1881 product lines offered by the credit union;  
 1882  
 1883 iv) A poor record of serving the credit needs of highly  
 1884 economically disadvantaged areas in its assessment area,  
 1885 and low-income members, including loans and other efforts  
 1886 to assist existing low- and moderate-income members to be  
 1887 able to remain in their neighborhoods, consistent with safe  
 1888 and sound operations;  
 1889  
 1890 v) Little use of innovative or flexible lending practices in a  
 1891 safe and sound manner to address the credit needs of low-  
 1892 and moderate-income members or geographies;  
 1893  
 1894 vi) There is possible evidence of loans that show an undue  
 1895 concentration and a systematic pattern of lending resulting  
 1896 in the loss of affordable housing units;  
 1897  
 1898 vii) A poor record relative to fair lending policies and practices;  
 1899 and  
 1900  
 1901 viii) It has made a low level of community development loans.  
 1902  
 1903 E) Substantial noncompliance. The Secretary rates a credit union's  
 1904 lending performance as being in "substantial noncompliance" if, in  
 1905 general, it demonstrates:  
 1906  
 1907 i) A very poor responsiveness to credit needs in its  
 1908 assessment area, taking into account the number and  
 1909 amount of home mortgage, and consumer loans, if  
 1910 applicable, in its assessment area;  
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- ii) A very poor geographic distribution of loans, particularly to low- and moderate-income geographies, in its assessment area, provided however, a geographic analysis is relevant in the context of the credit union's membership by-law provisions;
  - iii) A very poor distribution, particularly in its assessment area, of loans among members of different income levels, given the product lines offered by the credit union;
  - iv) A very poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area, and low-income members, including loans and other efforts to assist existing low- and moderate-income members to be able to remain in their neighborhoods, consistent with safe and sound operations;
  - v) No use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- and moderate-income members or geographies;
  - vi) Origination of loans that show an undue concentration and a systematic pattern of lending resulting in the loss of affordable housing units;
  - vii) A very poor record relative to fair lending policies and practices; and
  - viii) It has made few, if any, community development loans.
- 2) Service performance rating. The Secretary assigns each credit union's service performance one of the five following ratings.
- A) Outstanding. The Secretary rates a credit union's service performance "outstanding" if, in general, the credit union demonstrates:
    - i) Its service delivery systems are readily accessible to members and geographies of different income levels in its assessment area;
    - ii) To the extent changes have been made, its record of opening and closing branches has improved the

- 1955 accessibility of its delivery systems, particularly to low-  
 1956 and moderate-income members or in low- and moderate-  
 1957 income geographies;  
 1958  
 1959 iii) Its services (including, where appropriate, business hours)  
 1960 are tailored to the convenience and needs of its assessment  
 1961 area, particularly low- and moderate-income members or in  
 1962 low- and moderate-income geographies;  
 1963  
 1964 iv) It is a leader in providing community development  
 1965 services; and  
 1966  
 1967 v) Excellent performance in the above criteria in areas, if any,  
 1968 identified as exhibiting significant disparities by race or  
 1969 other protected characteristics in access to community  
 1970 development services by a Disparity Study incorporated  
 1971 into the examination process under Section 185.210(h) as  
 1972 compared to the baseline performance levels in those areas  
 1973 as identified by the study.  
 1974  
 1975 B) High satisfactory. The Secretary rates a credit union's service  
 1976 performance "high satisfactory" if, in general, the credit union  
 1977 demonstrates:  
 1978  
 1979 i) Its service delivery systems are accessible to members and  
 1980 geographies of different income levels in its assessment  
 1981 area;  
 1982  
 1983 ii) To the extent changes have been made, its record of  
 1984 opening and closing branches has not adversely affected the  
 1985 accessibility of its delivery systems, particularly to low-  
 1986 and moderate-income members and in low- and moderate-  
 1987 income geographies;  
 1988  
 1989 iii) Its services (including, where appropriate, business hours)  
 1990 do not vary in a way that inconveniences its assessment  
 1991 area, particularly low- and moderate-income members and  
 1992 low- and moderate-income geographies; and  
 1993  
 1994 iv) It provides a relatively high level of community  
 1995 development services.  
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- C) Low satisfactory. The Secretary rates a credit union's service performance "low satisfactory" if, in general, the credit union demonstrates:
- i) Its service delivery systems are reasonably accessible to members and geographies of different income levels in its assessment area;
  - ii) To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly to low- and moderate-income members and in low- and moderate-income geographies;
  - iii) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area, particularly low- and moderate-income members and low- and moderate-income geographies; and
  - iv) It provides an adequate level of community development services.
- D) Needs to improve. The Secretary rates a credit union's service performance "needs to improve" if, in general, the credit union demonstrates:
- i) Its service delivery systems are unreasonably inaccessible to portions of its assessment area, particularly to low- and moderate-income members or to low- and moderate-income geographies;
  - ii) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility its delivery systems, particularly to low- and moderate- income members or in low- and moderate-income geographies;
  - iii) Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area, particularly low- and moderate-income members or low- and moderate-income geographies; and



- iv) It provides a limited level of community development services.
- E) Substantial noncompliance. The Secretary rates a credit union's service performance as being in "substantial noncompliance" if, in general, the credit union demonstrates:
- i) Its service delivery systems are unreasonably inaccessible to significant portions of its assessment area, particularly to low- and moderate-income members or to low- and moderate-income geographies;
  - ii) To the extent changes have been made, its record of opening and closing branches has significantly adversely affected the accessibility of its delivery systems, particularly to low- and moderate-income members or in low- and moderate-income geographies;
  - iii) Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area, particularly low- and moderate-income members or low- and moderate-income geographies; and
  - iv) It provides few, if any, community development services.
- c) Investment performance rating. The Secretary assigns each credit union's investment performance one of the five following ratings.
- 1) Outstanding. The Secretary rates a credit union's investment performance "outstanding" if, in general, it demonstrates:
    - A) An excellent level of qualified investments, particularly those that are not routinely provided by private investors, often in a leadership position;
    - B) Extensive use of innovative or complex qualified investments;
    - C) Excellent responsiveness to credit and community development needs; and
    - D) Excellent performance in the above criteria in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics, if any, in access to qualified investments

by a Disparity Study incorporated into the examination process under Section 185.210(h) as compared to the baseline performance levels in those areas as identified by the study.

- 2) High Satisfactory. The Secretary rates a credit union's investment performance "high satisfactory" if, in general, it demonstrates:
  - A) A significant level of qualified investments, particularly those that are not routinely provided by private investors, although rarely in a leadership position;
  - B) Significant use of innovative or complex qualified investments; and
  - C) Good responsiveness to credit and community development needs.
- 3) Low satisfactory. The Secretary rates a credit union's investment performance "low satisfactory" if, in general, it demonstrates:
  - A) An adequate level of qualified investments, particularly those that are not routinely provided by private investors, although rarely in a leadership position;
  - B) Occasional use of innovative or complex qualified investments;
  - C) Adequate responsiveness to credit and community development needs; and
- 4) Needs to improve. The Secretary rates a credit union's investment performance "needs to improve" if, in general, it demonstrates:
  - A) A poor level of qualified investments, particularly those that are not routinely provided by private investors;
  - B) Rare use of innovative or complex qualified investments; and
  - C) Poor responsiveness to credit and community development needs.
- 5) Substantial noncompliance. The Secretary rates a credit union's investment performance as being in "substantial noncompliance" if, in general, it demonstrates:

- 2124 A) Few, if any, qualified investments, particularly those that are not  
 2125 routinely provided by private investors;  
 2126  
 2127 B) No use of innovative or complex qualified investments; and  
 2128  
 2129 C) Very poor responsiveness to credit and community development  
 2130 needs.  
 2131  
 2132 d) Wholesale or limited purpose credit unions. The Secretary assigns each wholesale  
 2133 or limited purpose credit union's community development performance one of the  
 2134 four following ratings.  
 2135  
 2136 1) Outstanding. The Secretary rates a wholesale or limited purpose credit  
 2137 union's community development performance "outstanding" if, in general,  
 2138 it demonstrates:  
 2139  
 2140 A) A high level of community development loans, community  
 2141 development services, or qualified investments, particularly  
 2142 investments that are not routinely provided by private investors;  
 2143  
 2144 B) Extensive use of innovative or complex qualified investments,  
 2145 community development loans, or community development  
 2146 services; and  
 2147  
 2148 C) Excellent responsiveness to credit and community development  
 2149 needs in its assessment area.  
 2150  
 2151 2) Satisfactory. The Secretary rates a wholesale or limited purpose credit  
 2152 union's community development performance "satisfactory" if, in general,  
 2153 it demonstrates:  
 2154  
 2155 A) An adequate level of community development loans, community  
 2156 development services, or qualified investments, particularly  
 2157 investments that are not routinely provided by private investors;  
 2158  
 2159 B) Occasional use of innovative or complex qualified investments,  
 2160 community development loans, or community development  
 2161 services; and  
 2162  
 2163 C) Adequate responsiveness to credit and community development  
 2164 needs in its assessment area.  
 2165

- 2166 3) Needs to improve. The Secretary rates a wholesale or limited purpose  
2167 credit union's community development performance as "needs to  
2168 improve" if, in general, it demonstrates:  
2169  
2170 A) A poor level of community development loans, community  
2171 development services, or qualified investments, particularly  
2172 investments that are not routinely provided by private investors;  
2173  
2174 B) Rare use of innovative or complex qualified investments,  
2175 community development loans, or community development  
2176 services; and  
2177  
2178 C) Poor responsiveness to credit and community development needs  
2179 in its assessment area.  
2180  
2181 4) Substantial noncompliance. The Secretary rates a wholesale or limited  
2182 purpose credit union's community development performance in  
2183 "substantial noncompliance" if, in general, it demonstrates:  
2184  
2185 A) Few, if any, community development loans, community  
2186 development services, or qualified investments, particularly  
2187 investments that are not routinely provided by private investors;  
2188  
2189 B) No use of innovative or complex qualified investments,  
2190 community development loans, or community development  
2191 services; and  
2192  
2193 C) Very poor responsiveness to credit and community development  
2194 needs in its assessment area.  
2195  
2196 e) Credit Unions evaluated under the small credit union performance standards.  
2197  
2198 1) Lending test ratings for small credit unions.  
2199  
2200 A) Eligibility for a satisfactory rating. The Secretary rates a small  
2201 credit union's performance "satisfactory" if, in general, the credit  
2202 union demonstrates:  
2203  
2204 i) A reasonable loan-to-share ratio (considering seasonal  
2205 variations) given the credit union's size, financial  
2206 condition, the credit needs of its assessment area(s), and  
2207 taking into account, as appropriate, lending-related  
2208 activities such as loan originations for sale to the secondary

- 2209 markets and community development loans and qualified  
 2210 investments;  
 2211  
 2212 ii) A majority of its loans and, as appropriate, other lending-  
 2213 related activities are in its assessment area;  
 2214  
 2215 iii) A distribution of loans to and, as appropriate, other lending  
 2216 related-activities for individuals of different income levels  
 2217 (including low- and moderate-income individuals) and  
 2218 businesses and farms of different sizes that is reasonable  
 2219 given the demographics of the credit union's assessment  
 2220 area;  
 2221  
 2222 iv) A record of taking appropriate action, as warranted, in  
 2223 response to written complaints, if any, about the credit  
 2224 union's performance in helping to meet the credit needs of  
 2225 its assessment area and reasonable performance with regard  
 2226 to fair lending policies and practices; and  
 2227  
 2228 v) A reasonable geographic distribution of loans given the  
 2229 credit union's assessment area.  
 2230  
 2231 B) Eligibility for an outstanding rating. A small credit union that  
 2232 meets each of the standards for a "satisfactory" rating under this  
 2233 paragraph and exceeds some or all of those standards may warrant  
 2234 consideration for an overall rating of "outstanding."  
 2235  
 2236 C) Needs to improve or substantial noncompliance ratings. A small  
 2237 credit union also may receive a rating of "needs to improve" or  
 2238 "substantial noncompliance" depending on the degree to which its  
 2239 performance has failed to meet the standards for a "satisfactory"  
 2240 rating.  
 2241  
 2242 2) Community Development Test Ratings for Intermediate Small Credit  
 2243 Unions  
 2244  
 2245 A) Eligibility for a Satisfactory Community Development Test Rating.  
 2246 The Secretary rates an intermediate small credit union's  
 2247 community development performance "satisfactory" if the credit  
 2248 union demonstrates adequate responsiveness to the community  
 2249 development needs of its assessment area or a broader statewide or  
 2250 regional area that includes the credit union's assessment area  
 2251 through community development loans, qualified investments, and

community development services. The adequacy of the credit union's response will depend on its capacity for such community development activities, its assessment area's need for such community development activities, and the availability of such opportunities for community development in the credit union's assessment area.

- B) Eligibility for an Outstanding Community Development Test Rating. The Secretary rates an intermediate small credit union's community development performance "outstanding" if the credit union demonstrates excellent responsiveness to community development needs in its assessment area through community development loans, qualified investments, and community development services, as appropriate, considering the credit union's capacity and the need and availability of such opportunities for community development in the credit union's assessment area.
- C) Needs to Improve or Substantial Noncompliance Ratings. An intermediate small credit union may also receive a community development test rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating

- 3) Service test rating for credit unions that are intermediate small credit unions: A credit union that is an intermediate small credit union will be rated under the service test in accordance with (b)(2) of 185.APPENDIX A (Ratings).

f) Overall rating

- 1) Eligibility for a satisfactory overall rating. No intermediate small credit union may receive an assigned overall rating of "satisfactory" unless it receives a rating of at least "satisfactory" on both the lending test and community development test.
- 2) Eligibility for an outstanding overall rating.
  - A) An intermediate small credit union that receives an "outstanding" rating on one test and at least "satisfactory" on the other test may receive an assigned overall rating of "outstanding".

B) A small credit union that is not an intermediate small credit union that meets each of the standards for a "satisfactory" rating under the lending test and exceeds some or all of those standards may warrant consideration for an overall rating of "outstanding". In assessing whether a credit union's performance is "outstanding", the Secretary considers the extent to which the credit union exceeds each of the performance standards for a "satisfactory" rating and its performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area.

3) Needs to improve or substantial noncompliance overall rating. A small credit union may also receive a rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating.

g) Strategic plan assessment and rating

1) Satisfactory goals. The Secretary approves as "satisfactory" measurable goals that adequately help to meet the credit needs of the credit union's assessment area.

2) Outstanding goals. If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as "satisfactory", the Secretary will approve those goals as "outstanding".

3) Rating. The Secretary assesses the performance of a credit union operating under an approved plan to determine if the credit union has met its plan goals:

A) If the credit union substantially achieves its plan goals for a satisfactory rating, the Secretary will rate the credit union's performance under the plan as "satisfactory".

B) If the credit union exceeds its plan goals for a satisfactory rating and substantially achieves its plan goals for an outstanding rating, the Secretary will rate the credit union's performance under the plan as "outstanding".

C) If the credit union fails to meet substantially its plan goals for a satisfactory rating, the Secretary will rate the credit union as either "needs to improve" or "substantial noncompliance", depending on the extent to which it falls short of its plan goals, unless the credit

union elected in its plan to be rated otherwise, as provided in  
Section 185.270(f)(4).

- h) Other eligible criteria for an outstanding rating. A credit union that achieves at least a "satisfactory" rating under the lending and service tests may warrant consideration for an overall rating of "outstanding". In assessing whether a credit union's performance is "outstanding", the Secretary will also consider the credit union's performance in making qualified investments and community development loans to the extent authorized under law.
- i) Component test ratings. The Secretary may develop, by written policy or directive, a matrix system which sets forth the methodology for aggregating a credit union's scores on the lending, service, and investment tests to arrive at an assigned rating.



**Section 185.APPENDIX B ILCRA Notice**

- a) Notice for main office. A credit union shall prominently display the following notice at its main office and on its website.

**ILLINOIS COMMUNITY REINVESTMENT ACT NOTICE**

Under the Illinois Community Reinvestment Act (ILCRA), the Secretary of the Department of Financial and Professional Regulation (Secretary) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations, and consistent with our common bond. The Secretary also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the ILCRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent ILCRA Performance Evaluation, prepared by the Secretary; and comments received from the public relating to our performance in helping to meet community credit needs, as well as our responses to those comments. You may review this information today.

At least 30 days before the beginning of each quarter, the Secretary publishes a list of the credit unions that are scheduled for ILCRA examination by the Secretary in that quarter. This list is available from the Secretary at 320 West Washington Street, 3<sup>rd</sup> Floor Springfield, IL 62786 and 555 W. Monroe St., Suite 500, Chicago, IL 60661. You may send written comments about our performance in helping to meet community credit needs to (name and address of official at credit union) and to the Secretary at 320 West Washington Street, 3<sup>rd</sup> Floor Springfield, IL 62786 and 555 W. Monroe St., Suite 500, Chicago, IL 60661 or electronically at <https://idfpr.illinois.gov/Admin/CRA.asp>. Your letter, together with any response by us, will be considered by the Secretary in evaluating our ILCRA performance and may be made public.

You may ask to look at any comments received by the Secretary. You may also request from the Secretary an announcement of our applications covered by the ILCRA filed with the Secretary. [We are an affiliate of (name of holding company), a bank holding company].

- b) Notice for branch offices. A credit union shall prominently display the following notice at all branch offices and on its website.

**ILLINOIS COMMUNITY REINVESTMENT ACT NOTICE**

Under the Illinois Community Reinvestment Act (ILCRA), the Secretary of the Department of Financial and Professional Regulation (Secretary) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Secretary also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the ILCRA. You may review today the public section of our most recent ILCRA evaluation, prepared by Secretary, and a list of services provided at this branch. You may also have access to the following additional information, which we will make available to you at this branch within five calendar days after you make a request to us:

- 1) a map showing the assessment area containing this branch, which is the area in which the Secretary evaluates our ILCRA performance in this community or other documentation showing the assessment area;
- 2) information about our branches in this assessment area;
- 3) a list of services we provide at those locations;
- 4) data on our lending performance in this assessment area; and
- 5) copies of all written comments received by us that specifically relate to our ILCRA performance in this assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

If you would like to review information about our ILCRA performance in other communities served by us, the public file for our entire credit union is available at (name of office located in state), located at (address).

At least 30 days before the beginning of each quarter, the Secretary publishes a list of the credit unions that are scheduled for ILCRA examination by the Secretary in that quarter. This list is available from the Secretary at 320 West Washington Street, 3<sup>rd</sup> Floor Springfield, IL 62786 and 555 W. Monroe St., Suite 500, Chicago, IL 60661. You may send written comments about our performance in helping to meet community credit needs to (name and address of official at credit union) and to the Secretary at 320 West Washington Street, 3<sup>rd</sup> Floor Springfield, IL 62786 and 555 W. Monroe St., Suite 500, Chicago, IL 60661 or electronically at <https://idfpr.illinois.gov/Admin/CRA.asp>. Your letter, together with any response by us, will be considered by the Secretary in evaluating our ILCRA performance and may be made public.

You may ask to look at any comments received by the Secretary. You may also request from the Secretary an announcement of our applications covered by the ILCRA filed with the Secretary. (We are an affiliate of (name of holding company), a holding company. You may request from (title of responsible official), Federal Reserve Bank of \_\_\_\_\_ (address) an announcement of applications covered by the ILCRA filed by holding companies.)

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- c) The Secretary may update the address(es) or web address(es) to be included on the required notices by posting a notice of the change of address(es) to the Department's website at least 30 days prior to the change.

**Section 185.APPENDIX C Examples of Community Development**

Examples of services, programs, sponsorships, donations, lawful investments, deposits, memberships shares, grants, other activities which may be deemed to have the primary purpose of community development include, but are not limited to the following:

- a) Establishment of or material support of charitable donation accounts and donor advised funds that benefit charitable organization which help meet the financial services needs of low-income and moderate-income neighborhoods or individuals within the credit union's assessment area;
- b) Establishment of or material support of foundations and other affiliated companies that provide programs and services to meet the credit needs of low-income to moderate-income neighborhoods;
- c) Offering products and services targeted to expand access to safe and affordable banking services;
- d) Provision or support of community development services that directly and tangibly benefit the assessment area;
- e) Offering products and services and/or provision of investments targeted to directly and tangibly increase climate resilience in low-income to moderate-income neighborhoods;
- f) Offering products and services and or provision of investments targeted to directly and tangibly mitigate environmental harm in low-income to moderate-income neighborhoods;
- g) Participating in Invest in Illinois or other similar state or federal programs which have the primary purpose of community development; and
- h) Participating in an activity listed on the Office of the Comptroller of the Currency's CRA Illustrative List of Qualifying Activities (May 20, 2020).

**Section 185.APPENDIX D Alternative Examination Procedures for Credit Unions with Assets less than \$10,000,000**

- a) Describe your activities to ascertain the financial services needs of the community, if any, and provide supporting documentation.
- b) Describe the extent of marketing, if any, to make members of the community aware of the financial services offered and provide supporting documentation.
- c) Describe your efforts and successes, if any, to assist existing low-income and moderate-income residents to be able to remain in affordable housing in their neighborhoods.
- d) Describe efforts and successes to assist existing low-income and moderate-income residents to be able to remain in affordable housing in their neighborhoods including, but not limited to, origination of mortgage loans including and home improvement and rehabilitation loans. At the discretion of the Secretary, a credit union shall also be required to submit to the Department:
  - 1) HMDA-LAR Quarterly Reports; or
  - 2) The following applicant information:
    - A) Application date
    - B) Loan Type
    - C) Property Type
    - D) Purpose
    - E) Owner Occupancy
    - F) Pre-approval
    - G) Loan Action Taken (details and date)
    - H) Property Address
    - I) Applicant's Ethnicity
    - J) Applicant's Race

- 2521
- 2522 K) Applicant's Sex
- 2523
- 2524 L) Gross Annual Income
- 2525
- 2526 e) For small business lenders, the application and loan details regarding origination
- 2527 of loans to businesses with gross annual revenues of \$1,000,000.00 or less,
- 2528 particularly those in low-income and moderate-income neighborhoods.
- 2529
- 2530 f) Describe your participation, if any, including investments, in community
- 2531 development and redevelopment programs, small business technical assistance
- 2532 programs, minority-owned depository institutions, community development
- 2533 financial institutions, and mutually-owned financial institutions, if any, and
- 2534 provide supporting documentation.
- 2535
- 2536 g) Describe your efforts and successes working with delinquent customers to
- 2537 facilitate a resolution of the delinquency and provide supporting documentation.
- 2538 At the discretion of the Secretary, a credit union shall also be required submit to
- 2539 the Department:
- 2540
- 2541 1) A delinquency report for the last six months;
- 2542
- 2543 2) Collection notes for loans delinquent for sixty or more days; and
- 2544
- 2545 3) Current loan status.
- 2546
- 2547 h) Describe your efforts and successes, if any, to offer retail banking services to
- 2548 unbanked and underbanked persons and provide supporting documentation.
- 2549
- 2550 i) Provide a written response to any public comments, if any, received since your
- 2551 last examination.
- 2552
- 2553 j) Provide any other information you believe is relevant to assessing whether you
- 2554 are meeting the financial services needs of local communities.